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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,631

07/02/2003

Charles C. Hart

A-2202-AL

3645

21378

7590

03/26/2008

APPLIED MEDICAL RESOURCES CORPORATION

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EXAMINER

YABUT, DIANE D

ART UNIT

PAPER NUMBER

3734

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,631	<b>Applicant(s)</b> HART ET AL.	
	<b>Examiner</b> DIANE YABUT	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-31, 33-40 and 42-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-31, 33-40 and 42-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/07/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This action is in response to applicant's amendment received on 11/08/2007.

#### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 02/07/2008 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### *Claim Objections*

2. Claim 27 is objected to because of the following informalities: Claim 27 begins with "A securing mechanism" and should rather begin --The securing mechanism--. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 26, 28-29, 31, 33, 40, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Daley, Jr., hereinafter "**Daley**," (U.S. Patent No. **6,899,053**).

Claims 26 and 28: Daley discloses a first interlocking member **38** having a base with a width, a first half and a second half, the width being equal or smaller than the length, a

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protrusion **44** extending from a periphery or first half of the base, a standing portion **42** extending widthwise from the base adjacent to the protrusion, the protrusion being substantially smaller than the standing portion, a mating window **46** disposed through the base or the second half of the base adjacent to the standing portion and extending widthwise on the second half of the base, and a mating hole **48** disposed through the base adjacent to the mating window, the mating hole being substantially smaller than the mating window, and a second interlocking member **40** operably connecting with the first interlocking member, the second interlocking member also having a protrusion, mating hole, standing portion, and mating window, with the protrusion operably connecting to the mating hole **48** of the first interlocking member, the standing portion operably connecting to the mating window **46** of the first interlocking member, and the mating window and mating hole operably connecting to the standing portion **42** and protrusion **44**, respectively, of the first interlocking member (Figure 4). Daley discloses that the standing portion and the mating window are sized and configured to engage and confine suture ends, with the suture ends positioned over the standing portion and in the mating window, when the standing portion and the mating window are mated together.

Claim 29: Daley discloses the standing portion **42** of the first interlocking member having a width and a length, the width begin equal to or greater than the length and the length of the standing portion of the first interlocking member being less than the length of the base of the first interlocking member (Figure 4).

Claims 31 and 40: Daley discloses the protrusions **44** of one of the first interlocking member and the second interlocking member further comprising barbs or having increased end diameters to engage opposing mating holes of one of the first interlocking member and the second interlocking member in a fixed relationship when fully mated (Figure 4).

Claims 33 and 42: Daley discloses the first and second interlocking members may be advanced, retracted, or adjusted along the length of a suture (Figure 4).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 30, 34-39, and 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Daley** (U.S. Patent No. **6,899,053**).

Claims 30, 34-37, 39, and 43-46: Daley discloses the claimed device, except for the protrusions of one of the first interlocking member and the second interlocking member being cylindrical and being sized and configured to match opposing mating holes, and the standing portions of one of the first interlocking member and the second interlocking member further comprising locking or latching features, or the increased end diameters, and the mating windows of one of the first interlocking member and the second interlocking member further comprising receiving portions to mate with the locking

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features of the standing portions of one of the first interlocking member and the second interlocking member, and the barbs or increased end diameters or locking or latching features of the standing portions being in a non-contacting relationship with a suture.

However, Daley discloses the use of cylindrical connectors **42** and locking or latching features or increased end diameters **44**, as well as receiving portions **48, 50** for mating first and second interlocking members together. It would have been obvious to one of ordinary skill in the art at the time of invention to modify any of the protrusion, standing portion, mating hole, or mating window of Daley with these features since it was well known in the art that connectors may take various shapes and configurations provided that they will securely mate with an aperture of like configuration in a male/female connecting relationship.

Claims 38 and 47: Daley discloses the claimed device including the standing portions of one of the first interlocking member and the second interlocking member being extendable through the mating window of one of the first interlocking member and the second interlocking member except for the standing portion being foldable onto an exterior surface of one of the first interlocking member and the second interlocking member away from the suture. This foldable feature is well known in the surgical art, as is with locking members or engaging members, such as clips or staples that are foldable onto the exterior surface of devices or tissues in order maintain secure engagement, and therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify the standing portions of Daley with a foldable feature to securely lock onto an exterior surface.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Daley** (U.S. Patent No. **6,899,053**) in view of **Cecil** (U.S. Patent No. **6,729,529**).

Claim 27: Daley discloses the claimed device including the standing portion of the first interlocking member having a free end away from an end fixed to the base of the first interlocking member, except for the free end having two substantially straight portions extending substantially perpendicular to the base of the first interlocking member with a substantially curved portion connecting the two generally straight portions together.

Cecil teaches free end **122** having two substantially straight portions extending substantially perpendicular to the base of the first interlocking member with a substantially curved portion **130** connecting the two generally straight portions together (Figure 5). It would have been obvious to one of ordinary skill in the art at the time of invention to provide two substantially straight portions with a substantially curved portion connecting the two straight portions, as taught by Cecil, to Daley in order to effectively fit and clamp a circular or cylindrical device, such as a suture, into the first interlocking member (Figure 7).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 26, 28-31, 33-140, and 42-47 have been considered but are moot in view of the new ground(s) of rejection

9. In regards to claim 27 applicant argues that there is no teaching to have the base portion of Cecil mated to a mating window to engage and confine suture ends. The examiner disagrees. As maintained above, it would have been obvious to one of

ordinary skill in the art at the time of invention to provide two substantially straight portions with a substantially curved portion connecting the two straight portions, as taught by Cecil, to Daley in order to effectively fit and clamp a circular or cylindrical device, such as a suture, into the first interlocking member (Figure 7).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/

Examiner, Art Unit 3734

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731